

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

CARLOS RODRIGUEZ,

Plaintiff,

v.

SOMAL BROTHERS TRUCKING, INC.  
and PHANGAN SINGH

Defendants.

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Cause No. 3:19-CV-00262

**NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Comes now Somal Brothers Trucking Inc. (hereinafter referred to as “Defendant”) and hereby files this, its Notice of Removal pursuant to 28 U.S.C. §§ 1332 and 1446. In support thereof, Defendant respectfully show as follows:

**I. THE STATE COURT ACTION AT ISSUE.**

1. On or about August 20, 2019, a civil action was commenced in the 120<sup>th</sup> Judicial District Court of El Paso County, Texas by the filing of an original petition bearing the caption: *Carlos Rodriguez v. Somal Brothers Trucking, Inc. and Phangan Singh*, Cause No.: 2019DCV3130 (hereinafter referred to as the “State Court Action”). As of the date of the filing of this notice of removal, the following pleadings and/or documents are contained in the State Court Action: **1.** Plaintiff’s Original Petition, **2.** Citation for Somal Brothers Trucking, Inc. and **3.** Citation for Phangan Singh, **4.** Return of Service for Phangan Singh, **5.** Return of Service for Phangan Singh, **6.** Certified Mail Record (Article No. 8119), **7.** Certified Mail Record (Article No. 8126), and **8.** Certified Mail Receipt (Article No. 8126). *See* Ex. A, Certified Copies of State Court Action

Pleadings. Said attached exhibits constitute all known process, pleadings, and notices contained in the State Court Action.

2. The State Court Action is a personal injury suit involving an alleged motor vehicle accident (“the Subject Accident”) that occurred in El Paso County, Texas on or about August 21, 2017. *See* Ex. A, Plt. Orig. Pet., Part V (Pg. 2).

3. The plaintiff in the State Court Action is Carlos Rodriguez in his individual capacity (hereinafter referred to as “Plaintiff”). *Id.* Based on information from Plaintiff’s Original Petition, Plaintiff is a resident of Jim Hogg County, Texas and is a citizen of the State of Texas. *See* Ex. A, Ex. A, Plt. Orig. Pet., Part III (Pg. 2). Based on this information, at the time the State Court Action was commenced, Plaintiff was a resident of the State of Texas and a citizen of the State of Texas. *See* Ex. A, Plt. Orig. Pet., Part III (Pg. 2).

4. Defendant, Somal Brothers Trucking Inc. (“Defendant”), is a California corporation with its principal place of business at 9064 Cobble Point Way, Sacramento, California 95829. Under 28 U.S.C. § 1332(c)(1), Defendant is a citizen of the State of California.

5. Defendant, Phangan Singh (hereinafter referred to as “Singh”), is a resident and a citizen of the State of California. Singh resides at 7981 Yeager Way, Sacramento, California 95828. *See* Ex. A, Plt. Orig. Pet., Part III (Pg. 2). Singh does not join in the instant Notice of Removal because as of the date of the filing of the instant Notice of Removal, Singh has not been served with process in the State Court Action and thus he is not required to join in the instant Notice of Removal. *See* 28 U.S.C. § 1446(b)(2)(A); *see also* *Getty Oil Corp. v. Ins. Co. of N. Am.*, 841 F.2d 1254, 1262 n.9 (5<sup>th</sup> Cir. 1988) *citing* *Pullman v. Jenkins*, 305 U.S. 534, 59 S. Ct. 347, 83 L. Ed. 334 (1939); *see also* *Jones v. Houston Indep. School Dist.*, 979 F.2d 1004, 1007 (5<sup>th</sup> Cir. 1992). Singh is not a resident or citizen of the State of Texas because Singh is a resident and citizen of the State of

California. *See* Ex. A, Plt. Orig. Pet., Part III (Pg. 2).

6. Defendant was served with a copy of the citation and petition in the State Court Action on Monday, August 26, 2019. As such, this notice of removal is filed within thirty (30) days of receipt of the petition and is timely filed under 28 U.S.C. § 1446(b).

7. No hearings have been scheduled in the State Court Action. A jury trial was requested by the Plaintiff in the State Court Action.

8. The State Court Action is pending within this district and division, as is required for removal by 28 U.S.C. § 1441(a). *See* Ex. A.

9. This Notice of Removal is filed within thirty days of Monday, August 26, 2019, the date on which Defendant was served with copies of the citation and petition, which is also the date on which Defendant had notice of its removal grounds: diversity of citizenship jurisdiction.

## **II. GROUNDS FOR REMOVAL – COMPLETE DIVERSITY OF CITIZENSHIP.**

10. The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties, in that Defendant and Singh are now, and were at the time the State Court Action was commenced, diverse in citizenship from the Plaintiff. Defendant and Singh are not currently citizens or residents of the State of Texas, nor were they citizens or residents of the State of Texas at the time the State Court Action commenced.

11. Removal of the State Court Action is proper under 28 U.S.C. Section 1441, since it is a civil action brought in a state court. *See* 28 U.S.C. § 1441. The federal district courts have original jurisdiction over the subject matter pursuant to 28 U.S.C. Section 1332 because Defendant, Singh and Plaintiff are diverse in citizenship. *See* 28 U.S.C. § 1332.

## **III. GROUNDS FOR REMOVAL – JURISDICTIONAL AMOUNT.**

12. Based on the express allegations contained by Part II (Pg. 1) of Plaintiff's Original

Petition, Plaintiff seeks monetary relief over \$1,000,000.00 (One Million Dollars). *See* Ex. A, Plt. Orig. Pet., Part II (Pg. 1). Defendant is entitled to rely on Plaintiff's allegation regarding the monetary amount contained in his Original Petition to establish the jurisdictional requirement of 28 U.S.C. § 1332(a). *See* 28 U.S.C. § 1446(c)(2). Thus, the amount in controversy in this action exceeds, exclusive of interest and costs, the sum of \$75,000 in accordance with 28 U.S.C. § 1332.

#### **IV. OTHER REMOVAL MATTERS.**

13. Defendant reserves the right to amend or supplement this Notice of Removal.

14. Pursuant to 28 U.S.C. § 1446(d), Defendant shall give Plaintiff written notice of the filing of this Notice of Removal, and shall file a written notice of this Notice of Removal with the Clerk of the District Court of El Paso County, Texas, 120<sup>th</sup> Judicial District, attaching a file-stamped copy of this Notice of Removal.

15. Pursuant to 28 U.S.C. §§ 1332 and 1446, this action is removable to the United States District Court for the Western District of Texas (El Paso Division).

Respectfully submitted,

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Attorneys for Somal Brothers Trucking Inc.

**CERTIFICATE OF SERVICE**

I certify on this 16<sup>th</sup> day of September of 2019, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties, through their counsel of record, by operation of the Court's CM/ECF electronic filing system. Parties may access this filing through the Court's notice of filing:

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- ☒ *Via E-Mail*
- ☐ *Via Certified Mail, RRR*
- ☐ *Via USPS First Class*
- ☐ *Via Hand Delivery*
- ☐ *Via Commercial Delivery Service*

/s/ Sergio E. Chavez  
SERGIO E. CHAVEZ